

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

ELI LILLY AND COMPANY
(Amgen, Inc.)
(5,756,461 and 5,922,678),
Junior Party,

v.

ROCKEFELLER UNIVERSITY
(09,316,393),
Senior Party.

Interference No. 105,093

Before SCHAFER, TORCZON, and NAGUMO, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

JUDGMENT
(PURSUANT TO 37 CFR § 1.662(a))

INTRODUCTION

The Board acknowledges Amgen's filing of a change in power of attorney (Paper 27), a change in real party-in-interest (Paper 28), and a request for adverse judgment for Count 1, the sole count. Amgen is now the junior party, the caption notwithstanding. The conference call scheduled for 11 July 2003 is now moot.

ORDER

Upon consideration of Amgen's request for adverse judgment, it is:

ORDERED that judgment on priority as to Count 1 be awarded against junior party Amgen, Inc.;

FURTHER ORDERED that junior party Amgen, Inc. not be entitled to a patent containing claims 1-7 of Amgen's 5,756,461 patent and claims 1-7 of Amgen's 5,922,678, which correspond to Count 1;

FURTHER ORDERED that the conference call scheduled for 11 July 2003 be cancelled; and

FURTHER ORDERED that a copy of this decision be entered in the administrative record of Amgen's 5,756,461 and 5,922,678 patents and of Rockefeller's 09,316,393 application.

RICHARD E. SCHAFER
Administrative Patent Judge

RICHARD TORCZON
Administrative Patent Judge

MARK NAGUMO
Administrative Patent Judge

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INTERFERENCE
TRIAL SECTION

cc (electronic mail):

For Amgen, Inc.: **Michael F. Borun** and **Nabeela R. McMillian** of MARSHALL, GERSTEIN & BORUN.

For Rockefeller University: **David A. Jackson** and **Christine E. Dietzel** of KLAUBER & JACKSON.